

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1332 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K. RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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NARSINGBHAI B MUNIA RAJPIPLA, POST THAPA

Versus

GSRTC

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Appearance:

MR JS BRAHMBHATT for Petitioner  
MR KS JHAVERI for Respondent No. 1  
NOTICE SERVED for Respondent No. 2, 3

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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 09/05/2000

ORAL JUDGEMENT

Rule. Mr. K.S Zaveri, learned advocate appearing for the respondent Corporation waives service of rule. With the consent of the learned advocates, this matter is taken up for final hearing today.

2. The brief facts of the present writ petition are that petitioner was working as a Conductor in Godhara Division of respondent no. 1 - Gujarat State Road Transport Corporation [hereinafter referred to as, 'the Corporation']. In pursuance to an incident occurred on 12th June, 1992, the petitioner was dismissed from service by the respondent-Corporation on 29th June, 1993. The said dismissal order was challenged by the petitioner before the Labour Court at Godhara in Reference (LCG) No. 516 of 1993. The said Reference came to be decided by the Labour Court on 4th November, 1996 wherein the Labour Court has been pleased to grant reinstatement with continuity of service without backwages for the interim period and with stoppage of two increments with permanent effect. The said Award was implemented by the respondent Corporation by an order dated 30th September, 1997 whereby the petitioner has been ordered to be reinstated in service at Jam-Jodhpur Depot of Jamnagar Division [not at Godhara Depot]. Being aggrieved with the said order of posting, the petitioner served a legal notice dated 20th January, 1998 to the Divisional Controller, Godhara and Jamnagar. The petitioner did not report for duty at Jam-Jodhpur Depot, and therefore, the Divisional Controller, Jamnagar had informed the petitioner by a letter dated 30th January, 1998 that inspite of the order of reinstatement at Jam-Jodhpur Depot, the petitioner has not so far reported for duty.

3. Mr. Brahmabhatt, learned advocate appearing for the petitioner has challenged the reinstatement order at Jam-Jodhpur Depot issued by the respondent Corporation on the ground that petitioner was an employee of Godhara Division and there was an Award passed by the Labour Court, Godhara to reinstate the petitioner in service on its original post at Godhara Division, and therefore, the petitioner Corporation is not having powers to transfer the petitioner from Godhara to Jam-Jodhpur Depot. Mr. Zaveri, learned advocate appearing for the petitioner Corporation has pointed out that Corporation is having powers to transfer any employee from one Division to another and in pursuance to an Award, if the Corporation thought it fit not to reinstate the petitioner in Godhara Division, then it is within the powers of the Corporation to transfer such an employee from one Division to another Division, and therefore, the order of reinstatement at Jam-Jodhpur Depot has been passed by the Corporation in the interest of administration. Mr. Zaveri further pointed out that so far petitioner has not reported at Jam-Jodhpur Depot in pursuance to the reinstatement order issued by the respondent Corporation and the respondent

Corporation has already issued a chargesheet and hold departmental inquiry against the petitioner which he shall have to face for disobeying the orders of the respondent-Corporation.

4. I have heard both the learned counsel at length.

Without entering into the merits of the matter, the undisputed fact remains that the petitioner would face natural difficulty of maintaining himself at Jam-Jodhpur Depot and thereby maintain his family which is stationed at Godhara. Therefore, in such a situation, the petitioner has challenged the hardships which may be caused to him in pursuance to the reinstatement order from Godhara Division to Jam-Jodhpur Depot. Therefore, considering all these difficulties and hardships of the petitioner, if it is recommended to the Corporation to consider the case of the petitioner to transfer him at a nearby Division, then it would meet the ends of justice. Therefore, considering the hardships and difficulties of the petitioner, according to my opinion, if the Corporation is directed to sympathetically reconsider the case of the petitioner to transfer him from Jam-Jodhpur Depot to nearby Division viz., either at Nadiad, Vadodara or Bharuch Division then it would mitigate the hardships of the petitioners. Further, in the meanwhile, the Corporation may not pass extreme penalty of dismissal in respect to the chargesheet for not reporting for duty at Jam-Jodhpur Depot. However, it is made clear that it is open for the petitioner Corporation to impose any other penalty for the alleged misconduct of not reporting for duty at Jam-Jodhpur Depot, in pursuance to the reinstatement order passed by the respondent Corporation. If the petitioner is dismissed from service in respect to the alleged misconduct, then this petition will become infructuous, and therefore, such directions are issued.

5. In view of these observations, the respondent Corporation is directed to sympathetically reconsider the case of petitioner and arrange to post him as Conductor in any nearby Divisions viz., either at Nadiad, Vadodara or Bharuch Division within a period of eight weeks from the date of receipt of copy of this judgment. In the meanwhile, the Corporation may not pass order of dismissal in respect to the misconduct of not obeying the reinstatement order at Jam-Jodhpur Depot. However, it is open for the Corporation to pass any other penalty order, except the dismissal order in respect to the said misconduct.

6. In view of these observations and directions, this petition stands disposed of. Notice is discharged.

There shall be no order as to costs.

[H.K Rathod, J.]

Prakash\*